BILL NO. S-81-01-~~02~~ 35

SPECIAL ORDINANCE NO. S-67-81

AN ORDINANCE approving a contract for Sewer Improvement Resolution No. 349-80 between the City of Fort Wayne, Indiana, and T-G Excavating, Inc. for installation of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That a certain contract dated January 21, 1981, between the City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works, and T-G Excavating, Inc., Contractor, for:

> the construction of a 24 inch interceptor from the intersection of High Street and Tyler Avenue to the intersection of Spring Street and Sprunger Street,

under Board of Public Works Sewer Improvement Resolution No. 349-80, at a total cost of $236,652.90, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein and made a part hereof, be and the same is in all things hereby ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY JANUARY 23, 1981.

JOHN E. HOFFMAN, CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by V. Schmidt, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____M.,E.S.T.

DATE: 2-17-81

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Burns, seconded by V. Schmidt, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

| | AYES | NAYS | ABSTAINED | ABSENT | TO-WIT: |
|---|---|---|---|---|---|
| TOTAL VOTES | 8 | | | 1 | |
| BURNS | ✓ | | | | |
| EISBART | ✓ | | | | |
| GiaQUINTA | ✓ | | | | |
| NUCKOLS | ✓ | | | | |
| SCHMIDT, D. | | | | ✓ | |
| SCHMIDT, V. | ✓ | | | | |
| SCHOMBURG | ✓ | | | | |
| STIER | ✓ | | | | |
| TALARICO | ✓ | | | | |

DATE: 2-24-81

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ No. S-67-81

on the 24th day of February, 1981.

ATTEST:
Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL)
John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of February, 1981, at the hour of 11:30 o'clock A M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of March 1981, at the hour of 4 o'clock P M.,E.S.T.

Winfield C. Moses, Jr.
WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-81-02-35

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving a contract for Sewer Improvement Resolution No. 349-80 between the City of Fort Wayne, Indiana, and T-G Excavating, Inc. for installation of a sanitary sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE ~~DO NOT~~ PASS.

PAUL M. BURNS, CHAIRMAN

VIVIAN G. SCHMIDT, VICE CHAIRMAN

BEN A. EISBART

SAMUEL J. TALARICO

ROY J. SCHOMBURG

CONCURRED IN

DATE 2/24/81 CHARLES W. WESTERMAN, CITY CLERK

70-100-3 f 1/21/81

CONTRACT NO. 349-80

THIS CONTRACT made and entered into in triplicate this 21st day of JANUARY, 1981, by and between T-G EXCAVATING, INC., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works herein called OWNER,

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named, agree as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the construction of the following:

Beginning at an existing manhole located 170± LF south of the centerline intersection of High Street and Tyler Avenue; thence westerly 533± LF to a proposed manhole on Leesburg Road located 90± LF west of and 380± LF north of the centerline intersection Norfolk and Western Railroad and Leesburg Road; thence northwesterly along Leesburg Road 1026± LF to a proposed manhole located 70± LF west of and 5± LF north of the centerline intersection of Leesburg Road and Lansing Avenue; thence northerly 589± LF to a proposed manhole 55± LF west of and 210± LF south of the centerline intersection of Leesburg Road and Spring Street; thence northwesterly 270± LF to a proposed manhole located 20± LF west of and 15± LF north of the centerline intersection of Sprunger Street and Spring Street; thence northerly 25± LF terminating at an existing manhole located 15± LF west of and 40± LF north of the centerline intersection of Spring Street and Sprunger Street.

Said sewer shall be 12" and 24" in diameter.

all according to Fort Wayne Pollution Control Engineering Department Drawing No. SY-11074, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of $236,652.90. In event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

| | | |
|---|---|---|
| 24" RCP Class V | Fifty dollars and 65/100 | 50.65 |
| 24" RCP Class IV | Forty-four dollars and 16/100 | 44.16 |
| 24" RCP Class III | Thirty-nine dollars and no/100 | 39.00 |
| 24" Encased Boring Complete | Three hundred thirty-two dollars and 50/100 | 332.50 |
| 24" C.L.D.I.P. Class 55 | Eighty-one dollars and 81/100 | 81.81 |
| 12" Sewer Pipe | Twenty-four dollars and 07/100 | 24.07 |

| | | |
|---|---|---|
| STD M-H Type I-A | One thousand nine hundred fifty-three dollars and no/100 | 1,953.00 |
| STD M-H Type V-A | Two thousand one hundred twenty-eight dollars and no/100 | 2,128.00 |
| Special Backfill | Two dollars and no/100 | 2.00 |
| 6" "T" or "WYE" | Ninety-two dollars and no/100 | 92.00 |
| 6" Building Sewer (Not Grant Fundable) | Twenty-six dollars and 04/100 | 26.04 |
| Excavation of Existing 6" Building Sewers | One hundred fifty dollars and no/100 | 150.00 |
| STD City of Fort Wayne Tap Permit (Not Grant Fundable) | Thirty-eight dollars and no/100 | 38.00 |
| Removal of Existing 15" Sanitary | One dollar and 50/100 | 1.50 |
| 9" Plain Concrete (Street) | Thirty-seven dollars and 80/100 | 37.80 |
| 6" Deep Strength Asphalt | Twelve dollars and 45/100 | 12.45 |
| 2" Deep Strength Asphaltic Surface | Three dollars and 40/100 | 3.40 |
| STD 6" Curb Replacement | Seven dollars and 20/100 | 7.20 |
| Seeding & 1" Mulch | No dollars and 15/100 | 0.15 |
| Pump Station Removal (Not Grant Fundable) | Four thousand dollars and no/100 per lump sum | 4,000.00 |
| Dewatering | No dollars and 10/100 | 0.10 |
| Base Stabilization | No dollars and 10/100 | 0.10 |
| Double Chip & Seal | One dollar and 80/100 | 1.80 |
| Removal of Existing 18" Sewer | Three dollars and no/100 | 3.00 |

ARTICLE 3. PROGRESS PAYMENTS

Payments are to be made to the Contractor in accordance with and subject to the provisions embodied in the documents made a part of this Contract.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Section 14 of the Compensation Act (I.C. 22-3-2-1).

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (NE/1 - NE/3)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay which ever is the highest of Federal, State, and Local wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Chapter 319 of the Acts of the General Assembly of the State of Indiana, of 1935, attached hereto and made a part hereof. (WR/1 through WR/34).

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of this contract as if hereto attached or herein repeated:

A. Advertisement for Bids, for Contract No. 349-80.
B. Instructions to Bidders for Contract No. 349-80.
C. Contractor's Proposal Dated December 16, 1980.
D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11074.
E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers and addendums thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
F. Federal Contract Provisions.
G. Workmen's Compensation Act (I.C. 22-3-2-1).
H. Non Discrimination of labor General Ordinance No. G-34-78 (as amended).
I. Prevailing wage scale.
J. Performance Bond.
K. Labor and Material Payment Bond.
L. Comprehensive Liability Insurance Coverage.

M. Application for Cut Permit.
N. Escrow Agreement.
O. Notice of Award.
P. Notice to Proceed.
Q. Change Order.
R. Notice of Final Acceptance.
S. Addendum No. 1
T. D.N.R. Permits

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall warrant all materials, labor and equipment furnished and work performed for a period of one (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage coverages in an amount and of a type acceptable to owner. Insurance in force issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.2.4.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract and the work to be performed and materials to be furnished shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified within the contract in 720 consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Environmental Protection Agency and Common Council of the City of Fort Wayne, Indiana, and should said Environmental Protection Agency or Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

T-C Excavating, Inc.

BY: Thomas M. Hackman, President

BY: [signature], Secretary

CITY OF FORT WAYNE, INDIANA

BY: [signature]
Win Moses, Jr., Mayor

ATTEST:

[signature]
Sandra E. Kennedy, Clerk

APPROVED AS TO FORM AND LEGALITY:

[signature]
ASSOCIATE CITY ATTORNEY

BOARD OF PUBLIC WORKS

[signature]
Mark L. Akers, Chairman

[signature]
Roberta Anderson Staten, Member

Herbert R. Gamache, Member

Approved by the Common Council of the City of Fort Wayne on _____ day of _____, 19____.

# Fidelity and Deposit Company

HOME OFFICE OF MARYLAND BALTIMORE, MD. 21203

## Performance Bond

KNOW ALL MEN BY THESE PRESENTS:

That T. G. Excavating, Inc., 5544 Huguenard Road, Fort Wayne, Indiana
(Here insert the name and address or legal title of the Contractor)

as Principal, hereinafter called Contractor, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, with its home office in the City of Baltimore, Maryland, U. S. A., as Surety, hereinafter called Surety, are held and firmly bound unto City of Fort Wayne, State of Indiana
(Here insert the name and address or legal title of the Owner)

as Obligee, hereinafter called Owner,
in the amount of Two Hundred Thirty Six Thousand Six Hundred Fifty Two Dollars and Ninety Cents ----------

Dollars ($ 236,652.90), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated January 21st 1981, entered into a contract with Owner for Junk Ditch Interceptor Sprunger Lift Station Elimination Resolution No. 349-80.

in accordance with drawings and specifications prepared by City of Fort Wayne, Indiana
(Here insert full name, title and address)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

(1) Complete the Contract in accordance with its terms and conditions, or

(2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this 21st day of January A.D. 19 81

In the presence of:

Martha H. Kendjenke

T G Excavating, Inc. (SEAL)
Principal
Thomas M. Huguenard Pres.
Title

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Barbara J. Deuse

By Virginia T. Axson (SEAL)
Title
Virginia T. Axson ( Attorney-in-fact)

C309c—
Approved by The American Institute of Architects, A.I.A. Document
No. A-311 February 1970 Edition.

# Power of Attorney

# FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE, BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

SEC. 2. The President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto.

does hereby nominate, constitute and appoint Walter H. Lupke, Jr., Duane E. Lupke, Donald L. Coffey, Edward B. Rice, Walter E. Boose, Lowell K. Zelt and Virginia T. Axson, all of Fort Wayne, Indiana, EACH.....
its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Walter H. Lupke, Jr., etal, dated, November 21, 1978.

The said Assistant Secretary does hereby certify that the aforegoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 17th day of December, A.D. 19 79

**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

ATTEST:

C W Robbins
*Assistant Secretary*

By C M Pecot
*Vice-President*

STATE OF MARYLAND } ss:
CITY OF BALTIMORE }

On this 17th day of December, A.D. 19 79, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

Notary Public Commission Expires July 1, 1982

## CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 15th day of January, 19 81

*Assistant Secretary*

# Fidelity and Deposit Company

*HOME OFFICE* OF MARYLAND *BALTIMORE, MD. 21203*

## Labor and Material Payment Bond

Note: This bond is issued simultaneously with Performance Bond in favor of the owner conditioned on the full and faithful performance of the contract.

KNOW ALL MEN BY THESE PRESENTS:

That T. G. Excavating, Inc., 5544 Huguenard Road, Fort Wayne, Indiana
(Here insert the name and address or legal title of the Contractor)

as Principal, hereinafter called Principal, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, with its home office in the City of Baltimore, Maryland, U. S. A., as Surety, hereinafter called Surety, are held and firmly bound unto City of Fort Wayne, State of Indiana
(Here insert the name and address or legal title of the Owner)

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of Two Hundred Thirty Six Thousand Six Hundred Fifty Two Dollars and Ninety Cents ----------
(Here insert a sum equal to at least one-half of the contract price)

Dollars ($ 236,652.90), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated January 21st 1981, entered into a contract with Owner for. Junk Ditch Interceptor Sprunger Lift Station Elimination Resolution No 349-80.

in accordance with drawings and specifications prepared by City of Fort Wayne, Indiana
(Here insert full name, title and address)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a sub-contractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

(a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

(b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this 21st day of January A.D. 19 81.

In the presence of:

Martha H. Kendziuka

T G Excavating, Inc. (SEAL)
Principal
Thomas M. Sprunger, Pres.
Title

Barbara J. Shuve

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
By Virginia T. Axson (SEAL)
Title
Virginia T. Axson ( Attorney-in-fact)

C309e15—20M,
Approved by The American Institute of Architects, A.I.A. Document No. A-311 February 1970 Edition.

*Power of Attorney*

# FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE: BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

SEC. 2. The President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto.

does hereby nominate, constitute and appoint Walter H. Lupke, Jr., Duane E. Lupke, Donald L. Coffey, Edward B. Rice, Walter E. Boose, Lowell K. Zelt and Virginia T. Axson, all of Fort Wayne, Indiana, EACH.....
its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons.
This power of attorney revokes that issued on behalf of Walter H. Lupke, Jr., etal, dated, November 21, 1978.

The said Assistant Secretary does hereby certify that the aforegoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 17th day of December, A.D. 1979.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

SEAL

ATTEST:

C W Robbins
*Assistant Secretary*

By C M Pecot, Jr.
*Vice-President*

STATE OF MARYLAND } ss:
CITY OF BALTIMORE }

On this 17th day of December, A.D. 1979, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

CAROL J. FADER NOTARY PUBLIC BALTIMORE CITY, MD.

Carol J. Fader
Notary Public Commission Expires July 1, 1982

## CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 15th day of January, 1981.

W C Bestrup
*Assistant Secretary*

L1428Ctf.—1M, 9-79 208873

"APPARENT" LOW BIDDERS
JUNK DITCH

| RESOLUTION | CONTRACTOR | BID | ENGINEER'S ESTIMATE |
|---|---|---|---|
| 341-80 | Winzeler Excavating | $ 644,070.50 | $ 783,311.00 |
| 342-80 | Winzeler Excavating | $ 1,282,562.00 | $ 1,514,839.00 |
| 345-80 | Ness Excavating | $ 392,195.30 | $ 590,258.75 |
| 347-80 | Ness Excavating | $ 181,495.25 | $ 278,685.00 |
| 348-80 | Winzeler Excavating | $ 652,385.05 | $ 1,075,538.25 |
| 349-50 | T-G Excavating | $ 236,652.90 | $ 343,737.50 |
| 350-50 | Ness Excavating | $ 166,972.75 | $ 238,227.25 |
| 351-50 | Winzeler Excavating | $ 476,890.30 | $ 626,400.00 |
| 352-50 | Bercot, Inc. | $ 178,768.55 | $ 159,265.35 |
| TOTAL BIDS | | $ 4,211,992.60 | $ 5,610,262.10 |

DIFFERENCE: 1,398,269.50 = 24.92% Under Engineer's Estimate

NUMBER OF BIDS RECEIVED - 61

NUMBER OF BIDDERS - 20

JUNK DITCH STUDY AREA
December 16, 1980

Resolution No. 341-80

| CONTRACTOR | BID |
|---|---|
| Winzeler Excavating | 644,070.50 |
| Dehner, John, Inc. | 669,963.85 |
| Ferrera, Rocco & Company | 688,920.00 |
| Bercot, Inc. | 704,974.10 |
| Waynesfield Construction | 793,896.00 |
| Busch, Inc. | 797,161.95 |

Resolution No. 342-80

| | |
|---|---|
| Winzeler Excavating | 1,282,562.00 |
| Dehner, John, Inc. | 1,329,013.80 |
| Busch, Inc. | 1,486,029.25 |
| Ferrera, Rocco & Company | 1,579,275.00 |

Resolution No. 345-80

| | |
|---|---|
| Ness, Richard Excavating | 392,195.30 |
| Nobis Construction | 451,039.50 |
| Dailey, L.W., Inc. | 484,756.85 |
| Bercot, Inc. | 487,882.70 |
| Dehner, John, Inc. | 499,045.25 |
| T&F Construction Corporation | 505,808.79 |
| T-G Excavating | 536,809.55 |
| Ralph Reed & Sons, Inc. | 558,384.50 |
| Busch, Inc. | 895,634.00 |

Resolution No. 347-80

| | |
|---|---|
| Ness, Richard Excavating | 181,495.25 |
| Lengacher Construction | 186,880.00 |
| Earth Construction | 202,784.55 |
| Hartman, John Construction | 202,880.00 |
| T-G Excavating, Inc. | 205,842.15 |
| Dailey, L.W., Inc. | 206,497.00 |
| Bercot, Inc. | 220,087.80 |
| Curner, Inc. | 233,235.50 |
| Hipskind Asphalt Corporation | 233,260.00 |
| T&F Construction Corporation | 245,402.35 |
| Allstar Construction | 278,758.75 |
| Moellering Construction | 283,291.25 |
| Fleming Excavating | 303,596.50 |

Resolution No. 348-80

| CONTRACTOR | BID |
|---|---|
| Winzeler Excavating | 652,385.05 |
| Earth Construction | 727,745.00 |
| Dehner, John, Inc. | 814,860.55 |
| Fleming Excavating | 876,415.25 |
| Hipskind Asphalt Corporation | 899,922.00 |
| Busch, Inc. | 908,756.50 |
| Bercot, Inc. | 922,049.25 |
| Reed, Ralph & Sons, Inc. | 967,582.50 |

Resolution No. 349-80

| | |
|---|---|
| T-G Excavating | 236,652.90 |
| Dehner, John, Inc. | 261,894.45 |
| Ness, Richard Excavating | 273,167.25 |
| Hipskind Asphalt Corporation | 288,470.00 |
| Bercot, Inc. | 323,090.45 |

Resolution No. 350-80

| | |
|---|---|
| Ness, Richard Excavating | 166,972.75 |
| Earth Construction | 167,842.10 |
| Hartman, John Construction | 173,042.50 |
| T-G Excavating | 179,271.50 |
| Curner, Inc. | 192,379.70 |
| Hipskind Asphalt Corporation | 195,747.00 |
| T&F Construction Corporation | 199,799.90 |
| Bercot, Inc. | 214,198.40 |
| Fleming Excavating | 219,586.00 |

Resolution No. 351-80

| | |
|---|---|
| Winzeler Excavating | 476,890.30 |
| Dehner, John, Inc. | 513,554.40 |
| T-G Excavating | 597,194.75 |
| Waynesfield Construction | 746,720.50 |
| Reed, Ralph & Sons,Inc. | 900,035.00 |

Resolution No. 352-80

| | |
|---|---|
| Bercot, Inc. | 178,768.55 |
| Reed, Ralph & Sons, Inc. | 179,927.00 |

# Certificate of Insurance

ACORD

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW.

NAME AND ADDRESS OF AGENCY

Insurance & Risk Management
P. O. Box 5194
Fort Wayne, IN 46895

COMPANIES AFFORDING COVERAGES

COMPANY LETTER A: Fireman's Fund Insurance Company

COMPANY LETTER B:

NAME AND ADDRESS OF INSURED

T-G Excavating, Inc. & Rex Terre, Inc.
5544 Huguenard Road
Fort Wayne, IN 46808

COMPANY LETTER C:

COMPANY LETTER D:

COMPANY LETTER E:

This is to certify that policies of insurance listed below have been issued to the insured named above and are in force at this time. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

| COMPANY LETTER | TYPE OF INSURANCE | POLICY NUMBER | POLICY EXPIRATION DATE | Limits of Liability in Thousands (000) | EACH OCCURRENCE | AGGREGATE |
|---|---|---|---|---|---|---|
| A | GENERAL LIABILITY<br>[X] COMPREHENSIVE FORM<br>[X] PREMISES—OPERATIONS<br>[X] EXPLOSION AND COLLAPSE HAZARD<br>[X] UNDERGROUND HAZARD<br>[X] PRODUCTS/COMPLETED OPERATIONS HAZARD<br>[X] CONTRACTUAL INSURANCE<br>[X] BROAD FORM PROPERTY DAMAGE<br>[X] INDEPENDENT CONTRACTORS<br>[X] PERSONAL INJURY | LA 289 85 44 | 3/1/81 | BODILY INJURY | $ 500 | $ 500 |
| | | | | PROPERTY DAMAGE | $ 250 | $ 250 |
| | | | | BODILY INJURY AND PROPERTY DAMAGE COMBINED | $ | $ |
| | | | | PERSONAL INJURY | | $ 500 |
| A | AUTOMOBILE LIABILITY<br>[X] COMPREHENSIVE FORM<br>[X] OWNED<br>[X] HIRED<br>[X] NON-OWNED | LA 289 85 44 | 3/1/81 | BODILY INJURY (EACH PERSON) | $ | |
| | | | | BODILY INJURY (EACH ACCIDENT) | $ | |
| | | | | PROPERTY DAMAGE | $ | |
| | | | | BODILY INJURY AND PROPERTY DAMAGE COMBINED | $ 750 | |
| | EXCESS LIABILITY<br>[ ] UMBRELLA FORM<br>[ ] OTHER THAN UMBRELLA FORM | | | BODILY INJURY AND PROPERTY DAMAGE COMBINED | $ | $ |
| A | WORKERS' COMPENSATION and EMPLOYERS' LIABILITY | WC 253 74 31 | 3/1/81 | STATUTORY | | |
| | | | | | $ 100 | EACH ACCIDENT |
| | OTHER | | | | | |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES

**Cancellation:** Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 10 days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

NAME AND ADDRESS OF CERTIFICATE HOLDER

Fort Wayne Board of Works
9th Floor City County Building
1 Main Street
Fort Wayne, IN 46802
Attn: Susan Adams

DATE ISSUED 1/23/81 ls

Leonard B. Kessler
AUTHORIZED REPRESENTATIVE

ACORD 25 (1-79)

5780

Admn. Appr. _____

DIGEST SHEET

S-81-02-25

TITLE OF ORDINANCE Junk Ditch Area Sanitary Improvements; Sewage Works Grant No. C-180599-08; Sewer Resolution No. 349-80

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE A CONTRACT WITH T-G EXCAVATING, INC. TO CONSTRUCT A 24 INCH INTERCEPTOR FROM THE INTERSECTION OF HIGH STREET AND TYLER AVENUE TO THE INTERSECTION OF SPRING STREET AND SPRUNGER STREET.

EFFECT OF PASSAGE Improvement to the water quality in the Junk Ditch Area with the construction of sanitary sewers.

EFFECT OF NON-PASSAGE The loss of both Federal and State Grant Funds to improve the City of Fort Wayne's environs.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) The construction of thi project will cost $236,652.90 which will be financed by USEPA 75%, State 10% City Utilities 15%.

ASSIGNED TO COMMITTEE (PRESIDENT) _____